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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,630	06/27/2003	Per Martinsson	930010-2206	8456
20/999 7590 08/06/2007 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER PIZZALI, ANDREW T	
			ART UNIT 1771	PAPER NUMBER
			MAIL DATE 08/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/608,630

**Applicant(s)**

MARTINSSON ET AL.

**Examiner**

Andrew T. Piziali

**Art Unit**

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5, 7-12, 14, 15, 17, 19, 21-26 and 28-48 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7-12, 19, 21-26 and 29-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 14, 15, 17, 28 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 6/25/2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 14, 15, 17, 28 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The current use of the phrase "one another" is unclear. It is not clear if the applicant is claiming that the plurality of respective layers are visibly distinguishable from each other, the core is visibly distinguishable from the plurality of respective layers, or both.

### ***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 14, 15, 17, 28 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 4,093,512 to Fleischer.

Regarding claims 1, 3, 14, 15, 17, 28 and 48, Fleischer discloses a papermaking fabric multilayer filament (20) having a core (22) comprised of a monofilament yarn surrounded by a plurality of respective layers (24 and 26) (see entire document including Figure 9, column 3, line 27 through column 4, line 50). Considering that the Kevlar (yellow) core and asbestos (white) cover material are different colors, the core is visibly distinguishable from the layers (column 4, lines 22-50).

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claims 3 and 17, considering that the Kevlar (yellow) core and asbestos (white) cover material are different colors, the indicated level of fabric wear is associated with a wear level through the respective layers.

Regarding claims 14 and 28, Fleischer discloses that the multilayer filament may comprise some or all of a multifilament yarn (column 3, lines 27-56).

Regarding claim 15, Fleischer discloses that the multilayer fiber may be used to construct an endless industrial fabric (column 3, lines 27-56).

7. Claims 1, 3, 14 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 6,033,779 to Andrews.

Regarding claims 1, 3, 14 and 48, Andrews discloses a multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of respective layers (see entire document including column 2, lines 37-42, column 3, lines 31-43, column 4, line 38 through column 7, line 5, and the Figures). Considering that the stainless steel (silver) core, Kevlar (yellow) middle layer, and wool (white) outer layer possess different colors, the core is visibly distinguishable from the plurality of layers and plurality of layers are visibly distinguishable from each other.

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claim 3, considering that the stainless steel (silver) core, Kevlar (yellow) middle layer, and wool (white) outer layer possess different colors, the indicated level of fabric wear is associated with a wear level through the respective layers.

Regarding claim 14, Andrews discloses that the multilayer filament may comprise some or all of a multifilament yarn (see Figures).

Regarding claim 48, Andrews discloses that the filament may be used in a fabric (column 1, lines 14-22).

***Claim Rejections - 35 USC § 103***

8. Claims 1, 3, 14 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,685,014 to Dapsalmon in view of anyone of USPN 3,800,019 to Parsey or USPN 6,653,943 to Lamb and further in view of anyone of USPN 4,651,514 to Collett, USPN 5,113,532 to Sutton, or USPN 6,033,779 to Andrews.

Regarding claims 1, 3, 14 and 48, Dapsalmon discloses a filament having a core (color A) surrounded by an outer layer (color B) (see entire document including column 1, line 63 through column 2, line 26). Dapsalmon does not specifically mention the use of a plurality of respective outer layers, but Parsey and Lamb each disclose that it is known in the wear detecting filament art that a core may be surrounded by a plurality of outer layers to indicate the degree of wear (see entire documents including column 2, lines 8-29 of Parsey and column 4, lines 20-35 of Lamb). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the filament of Dapsalmon with a plurality of outer layers, because the plurality of outer layers allow for the indication of the degree of wear.

Dapsalmon does not appear to disclose if the core fiber comprises a monofilament yarn, therefore, it would have been obvious to look to the prior art for conventional core materials. Collett, Sutton, and Andrews each provide this conventional teaching showing that it is known in the cut resistant fiber art to use a core comprising a monofilament (see entire documents including column 2, lines 57-62 of Collett, column 3, lines 30-48 of Sutton, and column 3, lines 27-43 of Andrews). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the core comprise a monofilament motivated by the expectation of successfully practicing the invention of Dapsalmon and because it has been held

to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claim 3, considering that the core and outer layer each possess different colors, the indicated level of fabric wear is associated with a wear level through the respective layers.

Regarding claim 14, Dapsalmon discloses that the filament may comprise a multifilament core-spun yarn (column 3, lines 57-60).

Regarding claim 48, Dapsalmon discloses that the filament may be used in a fabric (paragraph bridging columns 1 and 2).

#### ***Response to Arguments***

9. Applicant's arguments filed 6/25/2007 have been fully considered but they are not persuasive.

The applicant asserts that there is no suggestion in Fleischer that the core material and the cover material possess different colors. The examiner respectfully disagrees. Considering that the Kevlar (yellow) core and asbestos (white) cover material are different colors, the core is visibly distinguishable from the layers (column 4, lines 22-50). Although one skilled in the art already knows that Kevlar and asbestos possess different colors, the examiner has included references disclosing that Kevlar is conventionally yellow and asbestos in conventionally white.

The applicant asserts that Andrews does not mention using the filament in a papermaking fabric. Applicant's argument is not persuasive because Andrews discloses that the filament may be used in a fabric (column 1, lines 14-22). In addition, claims 1, 3 and 14 are drawn to a filament, not a fabric. A recitation of the intended use of the claimed invention must result in a

structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The applicant asserts that Dapsalmon does not mention using the filament in a papermaking fabric. Applicant's argument is not persuasive because Dapsalmon discloses that the filament may be used in a fabric (paragraph bridging columns 1 and 2). In addition, claims 1, 3 and 14 are drawn to a filament, not a fabric. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### *Conclusion*

10. The following patent is cited to further show the state of the art with respect to the color of Kevlar: USPN 4,813,630 to Conn (see column 4, lines 20-30).

11. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew T Piziali/  
Primary Examiner, Art Unit 1771